



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. BOX 827  
CARLISLE, MA 01741  
(508) 369-9702

## MINUTES

May 12, 1997

**Continued Public Hearing: Definitive Subdivision Plan for Pine Meadow (Maple St.), William Costello Realty Trust, applicant**

**Continued Public Hearing: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, Inc., applicant**

**ANR Plans: 307 Cross Street**

**Sleigh Road, Westford**

**135 Nathan Lane**

**Report on completion of construction to correct drainage deficiencies at Ice Pond Subdivision, and timetable for completion of subdivision roadway**

Acting chair Hengeveld opened the meeting at 7:20 p.m. Present were Abend, Duscha, Epstein, Hengeveld, Tice and Yanofsky. LaLiberte joined the meeting late. Also present were Maya Liteplo for *The Mosquito* and Planning Administrator George Mansfield.

The report to Town Meeting on the hearing of May 1, 1997, on Article 22 proposed zoning bylaw amendment for wireless communication facilities, was accepted as minutes for that meeting on a motion by Yanofsky, seconded by Duscha, by a vote of 4-0. Epstein, Tice and LaLiberte not voting.

**Continued Public Hearing: Definitive Subdivision Plan for Pine Meadow (Maple St.), William Costello Realty Trust, applicant**

Present for this hearing were William Costello, his attorney, Richard Gallogly, Joe March of Stamski & McNary, Mike and Susan Sturgeon of Blaisdell Dr., Lee and Mary Storrs of Brook St., Louisa and Jay Heard of Maple St., Kathleen Coyle of Maple St., Bonnie and Gabor Miskolczy of Cross St., Tony Mariano of Page Brook Rd., Judy Lane of Concord St., Sandra Suduikis of Brook St., Brian Anderson of E. Riding Dr., Jean Morin of Maple St. and Gregor McGregor and Nathaniel Stevens of McGregor and Shea, Boston.

Abend asked to be recused for this discussion since he is an abutter. Duscha asked about the status of proposed trails. Gallogly replied since they were a condition of the original approval his client would be willing to provide the same trails this time. Epstein asked to review the outstanding engineering items. March replied he did not feel a sediment sump detail was needed on the plan. He thought that adequate information had been provided, but he had no problem in drawing the detail if the Board desires. Epstein noted that specifying Class V pipe may provide an additional margin of safety and March replied that he would agree to specify Class V pipe. March then proceeded to review point by point, the letter received from Judith Nitsch Engineering at the meeting of April 14th. He said that soil types were shown in the application packet and LandTech has concurred with this. He said that the drainage calculations have not been re-reviewed because they have been reviewed previously on two occasions. He also said that a sedimentation device will be shown on the detailed plans. Regarding general comments, March said that he disagreed about Nitsch's recommendation for oil traps and LandTech agrees with Stamski and McNary. He also said that a well to recharge a fire cistern is preferred by the Carlisle Fire Department. Otherwise, he agreed to provide the details suggested by Nitsch. Duscha commented that if they are willing to provide this detail, additional information is desirable, and Epstein agreed.

Hengeveld and Duscha asked to see draft easements for the proposed trails. Gallogly replied that he is not going to submit them at this time, noting that it was a condition of approval last time. He said he thought this would be a quick process and it is clear that the plan submitted does not violate the Rules and Regulations. Duscha asked if he intended to have the Board reuse the old easement documents. Gallogly said that they will be amended according to the comments of Town Counsel and will be submitted after approval of the plan.

Gregor McGregor then approached the Board and suggested that if the Board is to approve the subdivision plan, he would like to propose conditions. These should be included in a recordable plan, especially if these are features to protect a natural environment. First he requested a 200 ft. buffer zone from Pages Brook. This should be a 200 ft., no-build, no-alter, limit of construction zone, shown on the plan. Hengeveld suggested that this was the jurisdiction of the Cons. Com. McGregor replied that this is not what the courts have ruled. He said the PB has general authority over impacts in its

regulations, specifically, Sec. 4.e. Because of the propensity of Pages Brook to flood, he said, this should be established as a no-build setback. Secondly, to protect the vernal pool, he proposed something similar, including a prohibition of chemical fertilizers and pesticides. He said the Board should ask the applicant to draft a covenant for lots where that condition should be imposed. He also requested the Board include a condition limiting road salt and other de-icing chemicals. He said that the approval should state that snow and ice removal shall be by sanding and plowing only. Thirdly, he requested a condition to protect older growth trees. He said that the Board should require the applicant to submit a tree removal and tree planting plan for both the Board's and the Cons. Com.'s approval. He suggested the Board specify a 1 to 1 replacement program for trees of 3" and greater caliper. Such a plan, he said, should be prepared by a certified arborist who should also be employed during construction to oversee the work.

At this point Epstein asked for a response to these proposed conditions from the applicant. Gallogly replied that there was a major disagreement over the jurisdiction of the Planning Board. He said he hasn't heard anything that his client would agree to and the Board has the authority to impose. McGregor stated that the applicant is saying that regulation 4.e., the protection of natural features, is illegal.

Next, McGregor suggested conditions relating to water resources. He said that there should be a baseline test, periodic retesting and written reports to the PB and Cons. Com. regarding the water quality. He stated that if the applicant is correct, there is nothing to worry about. Regarding septic effluent, he said, the Board should make compliance with Title V and local septic regulations a condition of approval "with no variances." Gallogly responded that he would hold by his previous comment. Epstein asked how the PB can tell the Board of Health not to grant variances. McGregor responded that they couldn't, but added that the PB can impose conditions to implement its concerns. Down the road, he said, a builder could get the variance, but would also have to come back to the PB for an amendment to the subdivision approval. Epstein said that he was having a difficult time seeing this Board as a policing board. McGregor responded that this is the board with the greatest overview of the project. If the PB doesn't adopt conditions such as these, he said, the project will proceed one permit at a time. He challenged the Board that this is their chance to plan for the future of this land.

Next, McGregor addressed the construction issues. He suggested that the hours of construction be specified as 8-5, Mon.-Fri. and that traffic safety personnel be provided. He said that the Board should ask the applicant to give the Town an option on one lot and that the time period be set to coincide with the cycle of Town Meeting. He also said that a tree screen of native species should be included as a condition on the planting plan. Gallogly replied that they would be willing to set aside a lot for one year and would agree to some plantings on Maple St., but he doesn't know when traffic safety personnel would be needed and that could be all the time. He stated that the applicant would like to be able to work 6 days a week which is typical. He should not be subject to constraints which are greater than those of a noise ordinance. Duscha said that on Brook and Maple Streets,

construction vehicles consistently speed. Gallogly offered to put up warning signs. Michael Abend, speaking as an abutter at 119 Maple St., said that this development is at the worst curve in the roadway. He can't see how one safety officer could maintain order along the whole stretch. He is concerned that trucks will eat up the edges of the roadway on the curves. Regarding hours of construction, he said that beginning at 7 a.m. on weekdays and 9 a.m. on Saturdays would be acceptable to him. Louisa Heard spoke of the danger faced by southbound traffic as it rounds the curve on Maple St. She said that a detail would be needed where trucks would be entering and leaving the site. Costello agreed to put up two "men working" signs permanently. Kathy Coyle spoke in favor of limiting the hours of operation. She cited another project where construction went on until 10 and 11 p.m. that had to be closed down. She would like protection from that.

Hengeveld noted that the hour for public presentation was up and suggested that there be another meeting. Gallogly requested that the Board close the Public Hearing now and review additional information in a public meeting setting.

Epstein asked if a no-build zone would be created on lots 1 and 15. Costello replied that he had agreed to no above ground structures for a 60 ft. set-back on these lots. He also said he would provide plantings in the open field as a buffer to the road, consisting of 30 pine trees 4-6 ft. high. Coyle noted that 6 ft. trees won't help during the time of construction. Lee Storrs asked if less water would be entering the ground and therefore have an effect on wells in the area as a result of this subdivision. March replied that there will be controlled run-off from the site and that specific infiltration areas have been provided.

Yanofsky stated that she was in favor of closing the hearing this evening and Tice agreed with her, but Epstein expressed some uneasiness at this move. Judy Lane asked if the hearing is closed, does that prevent any changes to the plans? Hengeveld replied that the plans would change because concessions have already been agreed to. Mary Storrs asked that the hearing be continued and that Town Counsel be invited to the next session of the hearing. Duscha then **moved to continue the hearing until May 27th at 7:30 p.m.** Tice seconded the motion and it was approved by a vote of 4-1 with one recused. Yanofsky opposed, Abend recused.

**Continued Public Hearing: Definitive Subdivision Plan for Hunters Run (off Nickles La. and Oak Knoll Rd.), Brian E. Hebb Builders, Inc., applicant**

Present for this hearing were Brian Hebb along with his representatives Lynn Remington and John Boardman of David E. Ross and Associates, David and Joanne Kelch of Oak Knoll Rd., and Susan and Thomas McAndrew, Kathy Rubenstein and Stuart Roberts all of Nickles Ln. LaLiberte who joined the meeting at this point, was recused from this hearing.

Remington said that she understood that Beals & Thomas would review the subdivision plan in terms of landscaping, because LandTech had already reviewed the engineering aspects, but, she concluded, this doesn't seem to be what was sent back. Epstein agreed. Tice asked whether the Board could request more input on aesthetic issues. Yanofsky observed that the Beals & Thomas report made no comment on the guardrails, nor talked about any particular features of the site. Yanofsky agreed to contact Paul Finger in conjunction with Mansfield and Tice, to discuss the deficiencies in their report.

Remington and Boardman asked whether the proposed residential compound regulations, at this point still pending before Town Meeting, could be applied to this subdivision to make a more workable cul-de-sac plan. However, because of the buffer requirement, they concluded that this probably would not work for this site. Remington noted that the Board had asked the engineers to explore cul-de-sac alternatives. Boardman explained that they were trying to achieve both the goals of their client and of the Town. He said such a plan would need to extend Oak Knoll Rd. to generate frontage and access to lots that already perc. He said that there would be 3 lots fronting on each cul-de-sac. The Oak Knoll cul-de-sac would be extended 250 ft. at a 10% grade with a 2% grade across the circle itself. This, Boardman said, would require a 24 ft. high embankment of fill. The Nickles Ln. cul-de-sac would be extended 800 ft. and require a 20 ft. high embankment of fill. Tice asked for the amount of fill required, compared with the standard plan, but Boardman replied that he hadn't calculated this. His conceptual plan also showed an emergency easement connecting the two cul-de-sacs, which he said could be constructed in the future if the police and fire departments were concerned. He suggested that the PB might be interested in waiving the construction standards for the Oak Knoll extension and build a common drive. He also suggested that a cistern could be constructed in the right-of-way or at the original location. In summary, Boardman said, they would need a large number of waivers to achieve this plan. Two waivers would be required to exceed the 15 building lots per dead-end street limit. A center line grade waiver would be required for the 10% slope. A waiver of construction standards would be required for the Oak Knoll extension, and a waiver to allow a T-turnaround at the Nickles Ln. extension to reduce fill would also be desirable. He said he was concerned about the timeframe that would be required to achieve approvals of this plan. He compared it to a much quicker timeframe that could be followed under the current filing. Yanofsky asked whether this plan would need a new filing. Boardman replied that it would be within the power of the Board to accept this within the current Public Hearing. Mansfield asked about the requirement for detention basins in this plan. Boardman replied no new basin would be needed for Nickles Ln. and a much smaller basin would be needed at Oak Knoll and would be moved from its present location.

Yanofsky said that she was pleased to have this plan presented and asked Boardman what he thought about the plan as an engineer. He said that he feared the waivers required opened up the plan to appeal and the fire chief's concerns were justified. He said he thought the through connection of the original plan is a benefit and that time is a concern of his client. Nevertheless, he said, it could be reasonable if done under the existing filing.

David Kelch then displayed his own plan and model of the subdivision of this land without connection. His plan showed a common drive off the end of Oak Knoll serving 3 lots with a total of 5 lots in the subdivision rather than 6. However, he said, by not having to build the road at all, the savings might offset the fact that there was one less lot. Another alternative, he said, would be to provide a common driveway across the wetlands to serve two of the three lots. Duscha asked how long the common drive was and Kelch replied 600-700 ft. Hebb said his biggest concern was maintaining the number of lots. He said he absolutely needs to get 6 lots from this subdivision and needs to know which way the PB would like him to go. Joanne Kelch asked him if he could get as much income from 5 lots, would that be sufficient? Hebb replied that he could not see how he could save that much money with the prices of land in Carlisle as they are. On top of that, he said, he plans to build the houses and so would lose profit from a reduction in their number. However, he stated that we should try to avoid the wetlands crossing at all costs. Stuart Roberts observed that with the two cul-de-sac scheme, the alignment of the road is more flexible. He asked whether this has been looked at. Boardman replied that changing the location of the roadway would be limited by septic system locations and house locations. Tom McAndrew stated that he thought the two cul-de-sac plan was a more favorable alternative. Boardman noted that these plans reduced the frontage allotted to the Kydd land.

Epstein said that he would not be in favor of a T-turnaround for fire access, but would like to avoid the wetlands crossing. Hengeveld said that she preferred the cul-de-sac plans. Tice said that he too was interested in this approach, but would like to see the comparative fill calculations. Duscha said that she was sorry that all this discussion did not happen in the preliminary phase of subdivision planning. She said that she was not in favor of putting more houses at the end of an existing dead end road, or doubling the length of that dead end road. Yanofsky said that she agreed with Hengeveld. Abend, however, said he could not see why the roads should not be connected. He asked for copies of all the previous minutes on these hearings, and the file on the subdivision application. Yanofsky then moved to continue the hearing, but the motion was not seconded. Epstein suggested that LandTech should review these new plans. Hebb, however, concluded that he should go with the original plan because he was not getting clear signals from the Board to go ahead with the alternatives. He said he would not be willing to grant a further extension at this time based on what he had heard, essentially, one yes, two nos and two maybes. Yanofsky reminded him that the common drive special permit would need five affirmative votes from the Board.

To give Hebb some further direction, Hengeveld then called for a straw vote of the Board's preference of the conceptual plans that were before it, the original 8% plan, the 10% alternative and the cul-de-sac plan. That poll resulted in 3 members in favor of the 10% plan, Epstein, Abend and Duscha; 2 in favor of the cul-de-sac, Yanofsky and Tice and 1 taking no position, Hengeveld. Hengeveld explained that she thought the through road was safer, but the neighborhood and developer have acted in good faith to present a

compromise plan to the Board, therefore, she said, she was faced with a dilemma. Abend then **moved to continue the Public Hearing to May 27th at 8:30 p.m.** That motion was approved by a vote of 6-0 with one recused, LaLiberte.

**ANR Plan: 307 Cross Street, James Ford, applicant**

Because the Board found that the signature block indicated endorsement by the Acton Planning Board, action on this ANR was continued until May 27th to allow for correction of the plan.

**ANR Plan: 135 Nathan Lane, Kevin Mendik, applicant**

Hengeveld **moved to endorse this plan** and Tice seconded the motion. It was approved by a vote of 7-0.

**ANR Plan: Land without frontage off Fiske St., Susan Avery and Joseph Holmes (Sleigh Rd., Westford), applicants**

Ken Harte was in attendance to present this plan. He explained that this plan would divide the land which is behind existing homes in Westford into two lots. One of these lots, abutting Town conservation land will be donated by the applicants to the Carlisle Conservation Foundation. This will provide access to the existing conservation land know as the McAfee land. Tice **moved to endorse this plan** and Yanofsky seconded the motion. The motion was approved by a vote of 6-0, with one recused, Hengeveld, as an abutter.

**Report on completion of construction to correct drainage deficiencies at Ice Pond Subdivision, and timetable for completion of subdivision roadway**

LaLiberte was recused from this discussion. Brian Hebb was present. Mansfield explained that a request for determination of the existing order of conditions to construct the swale at the outlet of the drainage pipe is scheduled at the May 22nd Cons. Com. meeting. Duscha asked Hebb if he could schedule an inspection with LandTech. Hebb said that he called Mark Sleger the day the work began, but Sleger did not show up until two days later. He said he could not leave the road open for this time. He also said he was not willing to bring equipment in to dig a test hole which would cost \$400-500 just to hire the equipment. He said he intends to pave the road before June 1st. Yanofsky noted that the same thing has happened before with this applicant and work such as this needs to be scheduled. Duscha agreed. Epstein said it was not productive to assess blame, but the Board wants this work done and done in the right way. Hebb said once again that he was

not willing to have the pipe dug up to be inspected. He said he believed that was an unreasonable request. Epstein told him it was his responsibility to get LandTech to the site at the proper time, and said he was dismayed by this turn of events. Hebb contended that he installed the pipe according to the plans and these had been acceptable to the Town's engineer, but Yanofsky insisted that Sleger should do an on-site inspection. Mansfield noted that LandTech had said that another alternative is to hold back part of the bond and evaluate the performance of the drainage pipe over time. As a member of the public, LaLiberte noted that this pipe was not part of the original plan. Abend added that if there is a problem down the road, the homeowners would pay the cost. Yanofsky then moved to have LandTech prepare a detailed description of the remaining work to be done and a cost estimate of that work. Tice seconded the motion and it was approved by a vote of 6-0 with one recused, LaLiberte. Board members asked Mansfield to express their concern to Sleger, that they were not happy that he did not get to the site sooner during the drain installation, and also ask that Sleger call Hebb and tell him that the inspection can be done using hand tools only.

#### **Organization of the 1997-98 Planning Board**

Hengeveld nominated Yanofsky as Chair and Duscha seconded the motion. Yanofsky said that she would accept the post. Duscha agreed to continue as Clerk. LaLiberte said that he would not want to remain as Treasurer. Tice agreed to be Treasurer and Abend said that he would be willing to assist him. Epstein nominated LaLiberte as Vice Chair and Tice seconded the motion. LaLiberte, however, said that he expects to be in an extensive trial over the next 3-4 months so Epstein withdrew the nomination. Abend then nominated Hengeveld as Vice Chair and Yanofsky seconded the motion. The vote on the resulting slate, Yanofsky - Chair, Hengeveld - Vice Chair, Duscha - Clerk and Tice - Treasurer was 7-0 in favor.

#### **Discussion of Planning Board response to failure of Town Meeting to approve Article 23, and consideration of motions for Town Meeting on 5/13/97**

In light of the Town Meeting vote on Article 23, LaLiberte moved **not to go forward with Articles 25 and 26**. Epstein seconded the motion. Duscha said that she had heard that a lot of people would be willing to help the Board get these article through, including reconsideration of Article 23. LaLiberte reported that the Town Moderator thinks that a motion for reconsideration would be improper without prior notice and won't accept such a motion. Moreover, he said, he thinks it would be politically unwise. Joanne Kelch asked if Articles 25 and 26 wouldn't be useful separately. Epstein replied that the underlying policy contained in Article 23 is a necessary basis for Article 25. The residential compound is proposed to supplement the open space neighborhood. **The vote on LaLiberte's motion was 6 in favor, none opposed and one abstaining, Duscha.** Duscha said her abstention was because she is discouraged. Yanofsky said she wished to



acknowledge the wonderful job done by Epstein and LaLiberte in preparing and presenting the articles at Town Meeting. Epstein said that he would like to have a debriefing session after the first of June. Mansfield said that he would notify the Town Administrator that the articles would not be moved.

**Report on Municipal Incentive Grant information meeting**

Mansfield reported on the DHCD workshop that he had attended in Auburn and the Board decided to go ahead with a first round grant application, a so-called letter of interest, despite the failure of the open space neighborhood article at Town Meeting. Yanofsky, LaLiberte and Epstein offered to work with Mansfield in preparing this application.

The meeting was adjourned at 11:50 p.m.

Respectfully submitted,

George Mansfield  
Planning Administrator